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OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Kubler et al.	:	REQUEST FOR
Patent Number: 7,633,934	:	RECONSIDERATION OF
Issue Date: 12/15/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/760057	:	and
Filing or 371(c) Date: 01/16/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 14364US04	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 27, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred seventy-eight (1278) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred seventy-eight (1278) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 17, 2004, and ends on October 7, 2008, the day before the RCE was filed, and is 630 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment for the "B" delay period is 630 days, not 631 days.

Regarding the period of adjustment of 18 days in connection with the filing of a Miscellaneous Communication on June 29, 2009, after the mailing of a Notice of Allowance, pursuant to 37 CFR 1.704(c)(10), a review of the application history confirms that the Miscellaneous Communication was not filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The reduction of 18 days is in error and has been removed.

Regarding the period of adjustment of 8 days in connection with the filing of an Amendment after Notice of Allowance, filed on June 29, 2009, a review of the record reveals that the Office assessed a reduction of 8 days in accordance with 37 CFR 1.704(c)(10) in connection with the

Amendment under 37 CFR 1.312, filed June 29, 2009. The reduction commenced on June 29, 2009, the date that Amendment was filed, and ended July 6, 2009, the mailing date of the Office action in response to the Amendment, and is 8 days (not 7 days).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seventy-six (1276) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,633,934 B2

DATED : December 15, 2009

INVENTOR(S) : Kubler et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1258 days.

Delete the phrase "by 1258 days" and insert – by 1276 days--